

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Fair Isaac Corporation,

Case No. 16-cv-1054 (DTS)

Plaintiff,

**TRIAL NOTICE AND
FINAL PRETRIAL ORDER**

v.

Federal Insurance Company,

Defendant.

This case has been scheduled for trial before Judge David T. Schultz beginning on **Wednesday, February 15, 2023, at 9:00 a.m.** in **Courtroom 14W** at the United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

PRETRIAL CONFERENCE

A final pretrial conference will be conducted by Judge Schultz in **Courtroom 9E** at the United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota, on **Wednesday, February 1, 2023, at 9:00 a.m.** All attorneys who will try the case must attend.

INSTRUCTIONS FOR ALL CASES

1. **Submitting Documents.** The parties will deliver to the chambers of Judge Schultz two courtesy copies of all the below-described documents that are electronically filed. Judge Schultz prefers those courtesy copies to be three-hole punched and unstapled (and, if warranted, appropriately tabbed).

2. **Trial Briefs.** Plaintiff and Defendants disagree whether trial briefs should be submitted to the Court. Accordingly, any party may, but is not required to, submit a trial brief no longer than 10,000 words. The trial briefs may address the following:

- a. **Facts.** The party may provide a summary of the facts that it intends to prove at trial.
- b. **Claims or Defenses.** The party may describe each cause of action including, if applicable, each claim, counterclaim, and cross-claim and any affirmative defenses that will be tried.

- c. **Unresolved Issues.** The party may identify any substantive, evidentiary, or procedural issues that remain unresolved. The party must briefly describe the party's position on the unresolved issues and identify the primary legal authority on which the party relies.
- d. **Other.** The party may address other matters that it believes will assist the Court in the trial of this matter.

3. **Exhibits.**

- a. By **Monday, January 9, 2023**, the parties must exchange lists of the exhibits that they may offer at trial, along with electronic copies of all exhibits on their respective lists.
- b. By **Monday, January 23, 2023**, the parties must exchange any objections to the opposing party's exhibits. Prior to the exchange of objections, the parties will agree to an objection key that identifies the abbreviations that will be used in connection with each objection ground.
- c. Each party must file a list of its exhibits using an exhibit-list form that is substantially the same as the exhibit-list form available from the clerk and send **copies** (i.e. provide the Court a jump drive containing all exhibits) of those exhibits to chambers by **Wednesday, January 25, 2023**. **Original** copies of the exhibits must **not** be submitted with the pretrial papers.
 - i. Plaintiff must mark its first exhibit as P-0001 and number the others sequentially. Defendants must mark their first exhibit as D-0001 and do likewise.
 - ii. Only exhibits that are identified on the exhibit list and filed with the Court may be offered into evidence at trial, unless the omission is excused for good cause.

4. **Witness Lists.** By **Wednesday, December 28, 2022**, the parties shall exchange witness lists, indicating whether each witness will be presented through deposition testimony, or through live testimony at trial and a brief description of the substance of the expected testimony of each witness. Witness lists need not include witnesses to be called as part of any rebuttal case. By **Wednesday, January 4, 2023**, each party must file their respective witness list with the Court. Persons not identified on a party's witness list may not testify at trial, unless the omission is excused for good cause.¹

¹ The witness description is understood to be a summary of the testimony to be offered at trial.

5. **Deposition Designations.**

- a. By **Friday, January 6, 2023**, the parties must exchange the specific deposition testimony that they intend to offer at trial as substantive evidence. No deposition testimony that is not identified by that date may be offered at trial as substantive evidence, unless the omission is excused for good cause.
- b. By **Friday, January 20, 2023**, the parties must exchange any objections and counter-designations to the opposing party's affirmative deposition designations.
- c. By **Tuesday, January 24, 2023**, the parties must exchange any objections and additional counter-designations to the counter-designations identified in Section 5(b).
- d. Deposition designations must be filed by **Friday, January 27, 2023**.
- e. Provide the Court with electronic copies of the designated testimony.

6. **Motions in Limine.** All motions in limine must be filed by **Friday, January 13, 2023**, and responses to all such motions must be filed by **Friday, January 27, 2023**. No brief in support of, or in opposition to, any motion in limine may exceed 3000 words. No reply brief may be submitted with respect to any motion in limine without the prior permission of the Court.

7. **Stipulations.** The parties are strongly encouraged to make every effort to agree on as many trial-related matters as possible, such as facts that may be treated as established and exhibits that may be admitted.

- a. By **Wednesday, January 11, 2023**, Plaintiff will exchange its statement of uncontested facts.
- b. By **Wednesday, January 25, 2023**, Defendants will exchange revisions to Plaintiff's statement of uncontested facts.
- c. By **Wednesday, February 1, 2023**, the parties will jointly submit a statement of uncontested facts to the Court.

ADDITIONAL INSTRUCTIONS FOR JURY TRIALS

1. **Proposed Voir Dire.** A party must file any questions that it requests the Court to ask prospective jurors during voir dire examination by **Wednesday, January 25, 2023**. A Word version of the proposed voir dire must be emailed to schultz_chambers@mnd.uscourts.gov.

2. **Joint Introduction to the Case.** By **Wednesday, January 25, 2023**, the parties must **jointly** file a proposed introduction to the case that Judge Schultz can read to prospective jurors during voir dire. The introduction should briefly describe the parties, the major issues, the plaintiff's position, and the defendant's position. A Word version of the joint introduction to the case must be emailed to schultz_chambers@mnd.uscourts.gov. The parties are encouraged to use as their starting point the summary of the case provided by Judge Schultz during the November 8, 2022 pre-trial conference and are reminded that simplicity, clarity and brevity will be most beneficial to the jury.

3. **Joint List of Parties, Attorneys, and Witnesses.** By **Wednesday, January 25, 2023**, the parties must **jointly** file an alphabetized list of the names of all parties, attorneys, and witnesses. Judge Schultz may provide that list to prospective jurors during voir dire. A Word version of the joint list of parties, attorneys, and witnesses must be emailed to schultz_chambers@mnd.uscourts.gov.

4. **Proposed Jury Instructions.**

- a. No later than **Wednesday, January 11, 2023**, the parties must exchange any proposed changes to the draft jury instructions that the Court provided the parties during the November 8, 2022, pre-trial conference. No later than **Wednesday, January 18, 2023**, the parties must exchange any objections to the opposing party's proposed draft jury instructions. The parties must then meet and confer and make every effort to resolve disagreements over the proposed instructions.
- b. The parties must **jointly** file **one** set of proposed jury instructions by **Wednesday, January 25, 2023**. A Word version of the proposed instructions must be emailed to schultz_chambers@mnd.uscourts.gov.
 - i. Each proposed instruction must be numbered, appear on a separate page, and identify supporting legal authority. Any citation to a set of model jury instructions or a jury-instruction treatise must be to the current version of the cited source unless a party has good cause to cite an older version and explains why it is citing the older version.
 - ii. Instructions or parts of instructions on which the parties agree must appear in plain Roman type.

- iii. Where the parties disagree, each side must present its proposed jury instruction along with a header identifying which party presents which proposed jury instruction. Each proposal shall contain a brief description of the party's position and the primary legal authority on which the party relies.

5. **Proposed Special Verdict Form.** No later than **Wednesday, January 11, 2023**, the parties must exchange any proposed changes to the draft special verdict form that the Court provided the parties during the November 8, 2022, pre-trial conference. No later than **Wednesday, January 18, 2023**, the parties must exchange any objections to the opposing party's proposed special verdict form. The parties must then meet and confer and make every effort to resolve disagreements over the proposed special verdict form. If the parties reach agreement, the proposed form must be filed by **Wednesday, January 25, 2023**. If they do not reach agreement, the parties must file their own proposed forms by **Wednesday, January 25, 2023**. A Word version of the proposed special verdict form must be emailed to schultz_chambers@mnd.uscourts.gov.

Dated: December 21, 2022

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge